

**UNITED STATES COURT OF APPEALS  
FOR THE TENTH CIRCUIT**

**October 5, 2005**

**Clerk of Court**

REX GIFFORD BURTON,

Plaintiff-Appellant,

v.

SOCIAL SECURITY  
ADMINISTRATION; COMMUNITY  
REACH CENTER,

Defendants-Appellees.

No. 04-1534  
(D.C. No. 04-K-2353)  
(D. Colo.)

**ORDER AND JUDGMENT\***

Before **SEYMOUR, KELLY, and MURPHY**, Circuit Judges.

After examining the briefs and appellate record, this panel has determined unanimously that oral argument would not materially assist the determination of this appeal. See Fed. R. App. P. 34(a)(2); 10th Cir. R. 34.1(G). The case is therefore ordered submitted without oral argument.

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\* This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. The court generally disfavors the citation of orders and judgments; nevertheless, an order and judgment may be cited under the terms and conditions of 10th Cir. R. 36.3.

Plaintiff-appellant Rex Gifford Burton appeals from an order of the district court that dismissed his suit without prejudice because defendant-appellee Social Security Administration (SSA) has not yet issued a final decision on his pending application for benefits. Mr. Burton contends on appeal that: (1) SSA is withholding his benefits even though he has been approved for a disability; (2) the Colorado Driver's License office refused to issue him an I.D. for cashing checks; (3) age discrimination is prevalent in the determination of money benefits; and (4) defendant-appellee Community Reach Center does not intervene to help him with his problems.

Because SSA has not issued a final decision on Mr. Burton's application, neither the district court nor this court has power to consider his complaint against defendants. See 42 U.S.C. § 405(g). We therefore affirm the district court's order dismissing the suit without prejudice to refiling after SSA has issued a final decision. We note, in addition, that Mr. Burton, raised only two issues in the district court: (1) that SSA and Community Reach Center will not tell him if his application for benefits has been approved or denied; and (2) SSA is withholding benefits. Even if we had jurisdiction now, we would not address his other issues, which were raised for the first time on appeal. See Singleton v. Wulff, 428 U.S. 106, 120 (1976). Finally, federal courts generally do not have jurisdiction over complaints that a State denied a person a driver's license.

Mr. Burton has not demonstrated the existence of a reasoned, nonfrivolous issue to be raised on appeal. Therefore, his motion for leave to proceed in this court without prepayment of costs and fees must be denied. See Coppedge v. United States, 369 U.S. 438, 446 (1962).

The judgment of the district court is AFFIRMED. The mandate shall issue forthwith.

Entered for the Court

Stephanie K. Seymour  
Circuit Judge